

APPENDIX G



JOINT POWERS AGREEMENT CREATING THE
SAN TIMOTEO WATERSHED MANAGEMENT AUTHORITY

THIS JOINT POWERS AGREEMENT ("Agreement") is made and entered into by and between the CITY OF BEAUMONT, the BEAUMONT-CHERRY VALLEY WATER DISTRICT, the SOUTH MESA MUTUAL WATER COMPANY and the YUCAIPA VALLEY WATER DISTRICT (individually and collectively referred to herein as the "PARTY" or "PARTIES", "MEMBER" or "MEMBERS", "MEMBER AGENCY" or "MEMBER AGENCIES").

RECITALS

- A. Each of the PARTIES is a public agency and each is authorized and empowered to contract with all the other PARTIES for the joint exercise of powers under Article I, Chapter 5, Division 7, Title 1 of the California Government Code, Sections 6500 et seq.
- B. Each of the PARTIES is located within the San Timoteo Watershed.
- C. Each of the PARTIES has the authority and power to prepare and implement a groundwater, surface water and recycled water resources management plan and program for watersheds, groundwater basins and waters tributary thereto, to rehabilitate and improve watersheds, groundwater basins and waters tributary thereto, and to create a separate public agency to carry out such power.
- D. The PARTIES recognize the public necessity for jointly undertaking plans and projects to protect, manage and enhance watersheds, groundwater, surface water and recycled water resources, to protect wetlands, wildlife and environmental resources, and to enhance the agricultural and recreational resources of the San Timoteo Watershed.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES, AND THE PROVISIONS, CONDITIONS AND TERMS PROVIDED FOR HEREIN, THE PARTIES AGREE AS FOLLOWS:

ARTICLE 1: CREATION AND PURPOSE

1.1 Creation of Separate Public Agency.

There is hereby created a public agency known as the "San Timoteo Watershed Management Authority" (hereinafter referred to as the "Authority"), pursuant to the provisions of the California Government Code, Sections 6500, et seq. It is the intent of the PARTIES that the Authority shall be a public agency separate from the PARTIES.

1.2 Territorial Boundaries.

The territorial boundaries of the Authority are coterminous with the boundaries of the Member Agencies as approximately depicted on the map attached hereto as Exhibit "A" and made a part hereof.

1.3 Purpose of the Authority.

The purpose of the Authority is to prepare and implement a Water Resources Management Plan for the San Timoteo Watershed and the waters tributary thereto, in order to conserve local water supplies, improve surface and subsurface water quality and quantity, protect and enhance groundwater storage and recreational resources, preserve open space, protect wildlife habitat and wetlands, protect and enhance agriculture, and develop and enhance the region's water resources for the benefit of the public.

ARTICLE 2: POWERS OF THE AUTHORITY

2.1 Powers.

The Authority shall have the power, in its own name, to do any and all of the following:

- (a) To make and enter into contracts, leases and other agreements;
- (b) To retain consultants, advisors, and independent contractors;
- (c) To incur debt, liabilities and obligations;
- (d) To acquire, hold or dispose of real or personal property;
- (e) To exercise the power of eminent domain;
- (f) To acquire, construct, manage, maintain, operate and own any buildings, works or improvements;
- (g) To sue and be sued in its own name;
- (h) To raise revenue, to levy and collect assessments, rates, fees and charges, and to issue bonds, notes, warrants and other evidences of indebtedness to finance costs and expenses incidental to the purpose of the Authority;
- (i) To apply for, receive and utilize grants and loans from any source available;

(j) To prepare and implement a comprehensive water resources management plan for the San Timoteo Watershed and waters tributary thereto by means of various programs and projects which may include, but are not limited to:

- (1) Watershed and basin monitoring;
- (2) Groundwater storage, basin banking and conjunctive use;
- (3) Stormwater capture and management;
- (4) Recycled water programs and projects;
- (5) Wetlands, wildlife and open space protection;
- (6) Water quality protection and enhancement;
- (7) Water conservation and efficiency.

(k) To contract with, and undertake collaborative efforts among federal, state and local agencies, local stakeholder groups, groundwater pumpers, landowners and environmental groups to prepare and implement a comprehensive water resources management plan for the San Timoteo Watershed.

(l) To exercise jointly the common powers of the PARTIES to protect, rehabilitate and improve watersheds;

(m) Pursuant to California Government Code, Section 6509, the Authority's power shall be exercised in a manner subject to the restrictions provided for under the law applicable to county water districts (California Water Code, Section 30000 et seq.

2.2 Liabilities.

The non-tort debts, liabilities and obligations of the Authority shall be the debts, liabilities and obligations of the Authority alone, and not of the MEMBER AGENCIES.

ARTICLE 3: EFFECTIVE DATE; NEW MEMBERS

3.1 Effective Date.

This Agreement shall become effective when the governing bodies of at least three of the PARTIES have executed this Agreement.

3.2 New Members.

In the event any entity desires to become a member of the Authority after its formation but before January 31, 2001, it may do so upon written request of the Commission, which request shall not be unreasonably denied. Thereafter, in the event any entity desires to become a member of the Authority it may do so only upon approval of four-fifths of the Commission, and upon the execution of a memorandum specifying the obligations of the prospective member for contributions toward past or present Authority expenditures.

ARTICLE 4: GOVERNING BODY

4.1 Composition.

The governing body of the Authority shall be a Commission composed of appointed representatives of the MEMBER AGENCIES. Each MEMBER AGENCY shall appoint, by resolution of its governing body, three Commissioners, two of whom shall be members of the appointing MEMBER AGENCY's governing board and the third shall be the MEMBER AGENCY's Manager (except for the CITY OF BEAUMONT, who shall appoint its Director of Community Development).

4.2 Meetings.

The Commission shall establish by resolution a regular meeting schedule. The Commission shall provide for the time and place of holding its regular meetings, which place shall be within the territorial boundaries of the Authority, and may be at a location different from that specified at Section 6.1. From time-to-time, special meetings may be called at the request of the Chair of the Commission or of a majority of the Commissioners. Notice of all meetings shall be furnished in writing to each member of the Commission and to each PARTY to this Agreement prior to the time appointed for the meeting. The meetings of the Commission shall be open to the public and shall be noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act as set forth in the California Government Code, Sections 54950, et seq.

4.3 Quorum.

A majority of the MEMBER AGENCIES represented on the Commission at any duly-noticed meeting shall constitute a quorum for the transaction of business.

4.4 Voting.

Each MEMBER AGENCY shall have one vote. Except as otherwise provided herein, all actions of the Commission shall be passed upon the affirmative vote of a majority of the Commission.

4.5 Meeting Rules.

The Commissioners may adopt, from time-to-time, such rules and regulations for the conduct of its affairs as may be required.

4.6 Powers of the Commission.

The Commissioners shall have the following express powers, duties and responsibilities:

- (a) Election of Authority officers;
- (b) Approval of the annual budget of the Authority;
- (c) Approval of amendments to this Agreement;
- (d) The exercise of powers of the Authority, including promulgation of policies, procedures and rules.

ARTICLE 5: OFFICERS AND COMMITTEES

5.1 Officers.

The officers of the Authority shall include a Chair, Vice Chair, and a Secretary-Treasurer.

5.2 Appointment of Officers by Commission.

(a) Subject to the succession provisions below, the officers shall be appointed annually in January, by a majority vote of the Commissioners. It shall be a policy of the Commission to encourage the rotation of the offices among the Commission members.

(b) Notwithstanding the foregoing provisions, in January the Vice Chair shall, by motion, be declared Chair for the following year. If the Vice Chair is unable or unwilling to serve as Chair, then the office shall be filled by appointment of the Commission.

5.3 Installation and Term.

Officers shall assume the duties of their offices immediately after their appointment and shall hold office until their successors are appointed, except in the case of their earlier removal or resignation. Vacancies shall be filled by appointment of the Commission, and such appointee shall hold office until the appointment of his/her successor.

5.4 Other Commission Officers.

The Commission may appoint such additional officers as may be appropriate and with such duties and authority as the Commission may determine.

5.5 Resignation/Removal.

Any officer may be removed, either with or without cause, by a majority vote of the Commissioners at any duly-noticed regular or special meeting. Any officer or Commissioner may resign at any time by giving written notice to the Chair or Secretary-Treasurer. Any such resignation shall be effective at the date of receipt of such notice or at any later time specified in the notice. Unless otherwise specified in the notice, acceptance of the resignation shall not be necessary to make it effective.

5.6 Chair.

The Chair shall preside at all meetings of the Commission, and shall exercise and perform such other powers and duties as may be assigned from time-to-time by the Commission.

5.7 Vice Chair.

In the absence or disability of the Chair, the Vice Chair shall perform all the duties of the Chair and, when so acting, shall have all the powers of and be subject to all of the restrictions on the Chair. The Vice Chair shall have such other powers and perform such other duties as the Commission may prescribe.

5.8 Secretary-Treasurer.

In the absence or disability of the Chair and Vice Chair, the Secretary-Treasurer shall perform all the duties of the Chair and, when so acting, shall have all the powers of and be subject to all the restrictions on the Chair. The Secretary-Treasurer shall have such other powers and perform such other duties as the Commission or this Agreement may prescribe.

5.9 Committees.

(a) There is hereby created a Managers Committee, which Committee shall consist of the Managers of the MEMBER AGENCIES. Each Manager may appoint an Alternate to attend the Committee meetings in the absence of the Manager. The Committee shall meet monthly to consider and to advise the Commission on such matters as may be assigned to it from time-to-time by the Commission. The Committee shall serve at the pleasure of the Commission.

(b) The Commission or the Chairman may establish such additional Committees as from time-to-time are deemed necessary or good for the Authority.

5.10 Compensation.

Each Commissioner may be compensated for attendance at all regular and special meetings of the Commission or of any committee as a committee member.

ARTICLE 6: BUSINESS OFFICE AND STAFF

6.1 Location.

The Authority's business office shall be located at the City of Beaumont City Hall, 550 East Sixth Street, Beaumont, California. The Commissioners may, from time-to-time, change by resolution the location of the Authority's business office.

6.2 Executive Director and Other Staff.

(a) The Commission shall appoint an Executive Director (who shall be an employee of a Member Agency) who shall be responsible for the general administration of the business and activities of the Authority as directed by the Commission;

(b) The Executive Director shall appoint such other staff as may be necessary for the administration of the Authority. Staff functions may be performed by officers, directors and employees of MEMBER AGENCIES, and by agents, advisors and consultants retained under contract by the Authority;

(c) The Executive Director and other staff of the Authority shall have such powers, duties and obligations as are established by this Agreement, the policies, procedures, rules, ordinances and resolutions promulgated by the Commission, and any contractual arrangements which may exist between the Authority and a third party.

ARTICLE 7: FINANCES

7.1 Budgets.

The Authority shall exercise its powers pursuant to General Budgets and Project Budgets.

7.2 General Budget.

Annually at the June meeting of the Commission, a General Budget shall be adopted for the ensuing fiscal year for the purpose of funding general administration, and the study of matters of general benefit to the Authority.

7.3 Specific Project Budgets.

For matters not deemed to be of general benefit to the Authority, the Authority shall function through the identification and implementation of "specific projects". A specific project may involve all or less than all of the MEMBERS of the Authority, provided that no MEMBER shall be involved without its approval. Only those members of the Commission representing the MEMBER AGENCIES who are involved in the specific project shall participate in any decisions concerning the specific project.

7.4 Sources of Funds.

The sources of funds available to the Authority shall include, but are not limited to, federal, state and local grants and loans, taxes and assessments, and rates, fees and charges.

7.5 Failure to Approve a Budget.

In the event a budget is not approved by the Commission prior to the start of the fiscal year, the Authority shall continue to operate at the level of expenditure authorized by the last approved budget.

7.6 Funds and Accounts.

(a) The Authority shall cause to be established and maintained such funds and accounts as may be required by law and good accounting practices. Separate accounts shall be established and maintained for each specific project under development or adopted and implemented by the Authority. Books and records of the Authority shall be open to inspection at all reasonable times by authorized representatives of MEMBER AGENCIES. The Authority shall adhere to the standard of strict accountability for funds set forth in Government Code, Section 6505.

(b) Pursuant to Government Code, Sections 6505.1 and 6505.6, the Secretary-Treasurer, Executive Director, Chief Financial Officer or Controller and such other persons as the Commission may designate shall have charge of, handle and have access to the funds and property of the Authority. A Chief Financial Officer or Controller shall be appointed by the Executive Director and shall have the powers, duties and responsibilities specified under California law including Section 6505 and following of the Government Code, and shall draw checks against authorized demands against the Authority.

(c) The Authority shall secure and pay for official bonds, in an amount or amounts and in the form specified by law, covering the Secretary-Treasurer, Executive Director, the Chief Financial Officer or Controller and such other officers and staff of the Authority who are authorized to hold or disburse funds of the Authority, and all other officers and staff who are authorized to have charge of, handle, and have access to property of the Authority.

7.7 Annual Audit.

Pursuant to Government Code, Section 6505, the Authority shall contract with an independent certified public accountant to act as the Authority's auditor and make an annual fiscal year audit of all accounts and financial statements of the Authority, conforming in all respects with the requirements of that section. A written report of the audit shall be filed as a public record with the County Auditor of the county where the office of the Authority is located, the State Controller, and with each MEMBER AGENCY within twelve months of the end of the fiscal year under examination. Costs of the audit shall be considered a general expense of the Authority.

7.8 Fiscal Year.

The fiscal year of the Authority shall be from July 1 to June 30, following.

ARTICLE 8: INDEMNIFICATION

8.1 Absolute Indemnification.

The MEMBER AGENCIES, their employees, agents and officials should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, defense costs, court costs or any other cost arising out of or in any way related to the Authority. Accordingly, the provisions of this indemnity are intended by the PARTIES to be interpreted and construed to provide the fullest protection possible under the law to the MEMBER AGENCIES.

Therefore, to the fullest extent permitted by law, the Authority shall defend, indemnify and hold harmless the MEMBER AGENCIES, their employees, agents and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, actual attorney fees incurred by MEMBER AGENCIES, court costs, interest, defense costs (including expert witness fees) and any other costs or expenses of any kind whatsoever without restriction or limitation incurred in relation to, as a consequence of or arising out of or in any way attributable actually, allegedly or impliedly, in whole or in part to the activities of the Authority.

ARTICLE 9: AMENDMENTS, WITHDRAWAL OR DISSOLUTION

9.1 Amendment of Agreement.

This Agreement may be amended at any time by a four-fifths vote of the Commission provided, however, that:

(a) Any meeting at which an amendment is to be acted upon shall require 30-days' prior written notice of the proposal, with the specifics of the proposed amendment to be set forth in the notice; and

(b) No Amendment which increases the liability or financial obligation of a MEMBER AGENCY shall be approved without that MEMBER AGENCY's consent.

9.2 Withdrawal.

Any MEMBER AGENCY of the Authority shall have the right to withdraw its membership upon serving written notice of its intention thereof on the Authority and all other MEMBER AGENCY at least 240 days prior to the effective date of such withdrawal; provided, however, that no such withdrawal shall relieve the withdrawing MEMBER AGENCY from financial obligations theretofore incurred by it under this Agreement. Upon withdrawal of any MEMBER AGENCY, the withdrawing MEMBER AGENCY shall receive its proportionate (based on contribution) or otherwise defined (by agreement of the PARTIES) share of the assets of the Authority (or the equivalent value thereof) within a reasonable amount of time after withdrawal and shall contribute its proportionate or otherwise defined share towards the discharge of any enforceable liabilities incurred by the Authority as the same appear on the books of the Authority.

9.3 Dissolution.

(a) The Authority may be dissolved upon a vote of not less than four-fifths of the Commission at least 240 days before the effective date of such dissolution; provided, however, that no such dissolution shall relieve the MEMBER AGENCIES from financial obligations theretofore incurred by them under this Agreement.

(b) Upon dissolution of the Authority, each MEMBER AGENCY shall receive its proportionate or otherwise defined share of the assets of the Authority within a reasonable amount of time after dissolution, and each member shall contribute its proportionate or otherwise defined share towards the discharge of any enforceable liabilities incurred by the Authority as the same appear on the books of the Authority.

(c) In the event it is impractical to distribute a proportionate or defined share of the assets to the MEMBER AGENCIES, then any property interest remaining in the Authority following a discharge of all obligations shall be disposed of pursuant to a plan adopted by four-fifths vote of the Commission.

ARTICLE 10: MISCELLANEOUS

10.1 Arbitration.

Any dispute which may arise by and between any of the MEMBER AGENCIES in connection with, or related to, this Agreement shall be submitted to binding arbitration. Arbitration shall be conducted by the Judicial Arbitration and Mediation Services, Inc./Endispute, or its successor, in accordance with its rules that are in effect at the time of the commencement of the arbitration proceeding, and as set forth herein. The arbitrator must decide each and every dispute in accordance with the laws of the State of California, and all other applicable laws. The arbitrator's decision and award are subject to judicial review only for material errors of fact or law in accordance with Section 1296 of the Code of Civil Procedure. Limited discovery may be conducted in the arbitration proceeding upon a showing of good cause and approval of the arbitrator. Unless the PARTIES stipulate to the contrary, prior to the appointment of the arbitrator, all disputes shall first be submitted to non-binding mediation, conducted by the Judicial Arbitration and Mediation Services, Inc./Endispute, or its successor, in accordance with its rules and procedures for such mediation.

10.2 Severability.

Should any part of this Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any federal or California law, or otherwise be rendered unenforceable, the validity of the remaining parts shall not be affected thereby.

10.3 Successors and Assigns.

This Agreement shall be binding upon and shall inure to the benefit of the successors of each of the MEMBER AGENCIES. The PARTIES to this Agreement shall not assign any rights or obligations under this Agreement without first obtaining approval by a four-fifths vote of the Commission.

10.4 Notices.

Any notice authorized or required to be given pursuant to this Agreement shall be in writing and shall be given by mail, postage prepaid, or delivered during normal business hours to the addresses of the PARTIES as such addresses are communicated to the Authority from time-to-time.

10.5 Multiple Originals.

This Agreement may be executed in counterparts, each of which shall be deemed an original.

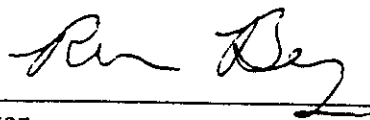
IN WITNESS WHEREOF, the PARTIES have executed this Agreement on the day and year indicated.

CITY OF BEAUMONT

Dated: _____

By

Mayor



DISTRICT

BEAUMONT-CHERRY VALLEY WATER

Dated: _____

By

President, Board of Directors

SOUTH MESA MUTUAL WATER COMPANY

Dated: _____

By

President, Board of Directors

YUCAIPA VALLEY WATER DISTRICT

Dated: _____

By

President, Board of Directors

IN WITNESS WHEREOF, the PARTIES have executed this Agreement on the day and year indicated.

CITY OF BEAUMONT

Dated: _____

By _____
Mayor

DISTRICT

BEAUMONT-CHERRY VALLEY WATER

Dated: _____

By  _____
George Anhalt, Vice President of
The Board of Directors of the

SOUTH MESA MUTUAL WATER COMPANY

Dated: _____

By _____
President, Board of Directors

YUCAIPA VALLEY WATER DISTRICT

Dated: _____

By _____
President, Board of Directors

IN WITNESS WHEREOF, the PARTIES have executed this Agreement on the day and year indicated.

CITY OF BEAUMONT

Dated: _____

By _____
Mayor

BEAUMONT-CHERRY VALLEY WATER DISTRICT

Dated: _____

By _____
President, Board of Directors

SOUTH MESA MUTUAL WATER COMPANY

Dated: 11/17/00

By *George J. Jouton*
President, Board of Directors

YUCAIPA VALLEY WATER DISTRICT

Dated: _____

By _____
President, Board of Directors

IN WITNESS WHEREOF, the PARTIES have executed this Agreement on the day and year indicated.

CITY OF BEAUMONT

Dated: _____

By _____
Mayor

BEAUMONT-CHERRY VALLEY WATER DISTRICT

Dated: _____

By _____
President, Board of Directors

SOUTH MESA MUTUAL WATER COMPANY

Dated: _____

By _____
President, Board of Directors

YUCAIPA VALLEY WATER DISTRICT

Dated: 12/20/00

By Carl B. Nelson
President, Board of Directors